

U.S. Department
of Transportation

United States
Coast Guard



Commandant
United States Coast Guard

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COMDTINST 16637.5
MARCH 4 1994

COMMANDANT INSTRUCTION 16637.5

Subj: COORDINATION OF GREAT LAKES REGISTERED PILOTAGE ISSUES

1. PURPOSE. This Commandant Instruction provides guidance on issues involving Great Lakes registered pilots to achieve greater coordination among Coast Guard units that deal with Great Lakes registered pilots.
2. ACTION. Commander, Ninth Coast Guard District will ensure that this Instruction is disseminated to all subordinate commands that deal with Great Lakes pilotage issues. The Director, Great Lakes Pilotage, and all affected units of the Ninth Coast Guard District will coordinate actions in accordance with this Instruction.
3. DISCUSSION. The Great Lakes Pilotage Act of 1960 requires foreign vessels and U.S. vessels sailing on register to engage a Great Lakes registered pilot when traversing the waters of the Great Lakes. Responsibility for enforcing the provisions of the Great Lakes pilotage statutes and regulations rests with the Director, Great Lakes Pilotage (G-MVP), based on 46 U.S.C. Chapter 93 and 46 CFR Parts 401-404. This jurisdiction overlaps in certain circumstances with the broader jurisdiction of the Commander, Ninth Coast Guard District (m), and the Captains of the Port (COTPs) on the Great Lakes. The guidance contained in enclosure (1) is

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designed to ensure coordinated Coast Guard action on matters pertaining to Great Lakes pilotage.

/s/ A. E. HENN
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SECURITY AND ENVIRONMENTAL
PROTECTION

Encl: (1) Guidance Regarding Issues Involving Great Lakes Registered Pilots

**GUIDANCE REGARDING ISSUES INVOLVING
GREAT LAKES REGISTERED PILOTS**

BACKGROUND

The Great Lakes Pilotage Act (46 U.S.C. 9301-9308) applies to foreign merchant vessels and to U.S. vessels operating on a registry endorsement. Pilots required by this law are referred to as "registered" pilots. The qualification requirements for registered pilots are considered to be more stringent than the requirements for Federal First Class Pilots (see 46 CFR 401.210, 402.210, and 402.220).

Foreign merchant vessels and U.S. vessels operating on a registry endorsement are required to take a U.S. or Canadian registered pilot when underway on the Great Lakes (46 U.S.C. 9302). In the undesignated waters of the Great Lakes a member of the complement of a U.S. registered vessel or a Canadian vessel may direct the navigation of the vessel as long as the member is licensed under 46 U.S.C. 7101 or equivalent provisions of Canadian law. If a U.S. vessel traversing the Great Lakes is operating on a Great Lakes or coastwise endorsement, it is subject to the pilotage requirements contained in 46 CFR 15.812, not the Great Lakes Pilotage Act.

The pilotage requirements for a U.S. vessel operating on a Great Lakes or coastwise endorsement under 46 CFR 15.812 may be satisfied by either an individual holding an appropriate first class pilot's license, or if the vessel is not more than 1,600 gross tons, by the master or mate ("acting as" pilot) if the individual satisfies the requirements contained in 46 CFR 15.812, including 4 round trips over the route to be traversed. Reciprocity with Canada on the Great Lakes has its basis in the Boundary Water Treaty of 1909. Reciprocity applies to the lakes, rivers, and connecting waters of the Great Lakes pursuant to the treaty. For U.S. vessels traversing Canadian waters of the Great Lakes, Canada accepts U.S. pilotage requirements. For Canadian vessels traversing U.S. waters of the Great Lakes, the U.S. accepts Canadian pilotage requirements (46 U.S.C. 9302).

The U.S. pilotage requirements for the Great Lakes outlined above can be summarized in the table which follows:

Pilotage Requirements on the Great Lakes

<u>Area of Operation</u>		
<u>Status of Vessel</u>	<u>Designated Waters</u>	<u>Undesignated Waters</u>
United States or Canadian Laker	Licensed or Certified Pilot Directing the Navigation(1)	Licensed or Certified Pilot Directing the Navigation(1)
United States or Canadian Vessel in Foreign Trade	Registered Pilot Directing the Navigation	Registered Pilot On Board(3) or Licensed or Certified Pilot Directing the Navigation(4)
Foreign Vessel (Except Canadian)	Registered Pilot Directing the Navigation	Registered Pilot On Board(3)

- 1 46 CFR 15.812, and comparable Canadian regulations.
- 2 46 U.S.C. 9302(a)(1)(A).
- 3 46 U.S.C. 9302(a)(1)(B).
- 4 46 U.S.C. 9302(b).

TEMPORARY SUSPENSION OF PILOTAGE REQUIREMENTS

General

The Great Lakes pilotage statutes provide for a temporary suspension of the statute's pilotage requirements in the event of either of the following two circumstances (46 U.S.C. 9302(d)):

1. A registered pilot is not expected to be available within six hours (the Six Hour Rule); or
2. The vessel or its cargo is in distress or jeopardy (the Distress Rule).

The Six Hour Rule (46 U.S.C. 9302(d)(1) and 46 CFR 401.501)

The following particulars apply to the six hour rule:

1. The Director, Great Lakes Pilotage, will be informed pursuant to 46 CFR 401.510(b)(3) and (4) by the pilot association or the vessel that a pilot is not expected to be available within six hours. However, this information may come from a ship's agent or the local Coast Guard command.
2. The Director will investigate and will make the determination as to whether a registered pilot is expected to be available within six hours.
3. If the Director determines that a registered pilot will be available within six hours, the Director will notify the Commander, Ninth Coast Guard District (m), the vessel (the vessel's agent), and the pilot association, that the vessel does require a registered pilot in accordance with 46 U.S.C. 9302(a).
4. If the Director determines that a registered pilot will not be available within six hours, the Director will notify the Commander, Ninth Coast Guard District (m), the vessel (the vessel's agent), and the pilot association. This determination is only in effect until the vessel enters a port, or other area where pilots are normally taken aboard. If the vessel has not sailed within the six hour period, another registered pilot must
5. be requested by the vessel (vessel's agent).
 - a. When the Director makes the notification of his determination, he will also relay all information pertinent to the situation which he has been able to ascertain. Pertinent information may include the Director's estimate of when or if any registered pilot might be available.
 - b. The Director and CCGD9(m) will keep each other apprised of new information regarding each situation, as the information becomes available.

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- c. Pursuant to 46 CFR 401.510(b)(6), "U.S. pilotage pools informing the Director that a pilot is not available for a vessel shall also obtain notice that a pilot is not available from the appropriate Canadian Supervisor of Pilots for those portions of the route which are in Canadian waters in the manner prescribed by them."
- d. Pursuant to 46 CFR 401.501(b), when the Director notifies the master that a U.S. or Canadian registered pilot will not be available within six hours, the vessel is no longer required to engage a registered pilot. However, the vessel still remains under the authority of the Captain of the Port (COTP), based on the Ports and Waterways Safety Act (33 U.S.C. 1223), and any other laws and regulations that may apply.
- e. The COTP, pursuant to the Ports and Waterways Safety Act, retains authority to determine whether the vessel may sail and will inform the Director and the Commander, Ninth Coast Guard District (m), of the final disposition of the case, and the vessel's next port of call. The Director will inform the appropriate pilot association.

The Distress Rule (46 U.S.C. 9302(d)(2) and 46 CFR 401.501)

A vessel may be navigated in the U.S. waters of the Great Lakes without a United States or Canadian registered pilot when the vessel or its cargo is in distress or jeopardy.

LABOR DISPUTES INVOLVING REGISTERED PILOTS

General

It is Coast Guard policy not to take sides in a labor dispute. During these situations, the Coast Guard's sole concern is in preserving maritime safety (46 CFR 5.71). A registered pilot may refuse to render pilotage services to a vessel during a labor dispute. This refusal may come either before the pilot boards the ship, or after. Each situation is handled differently.

Refusal Before Boarding

If a registered pilot is confronted with a picket line or other evidence of a labor dispute before boarding a vessel, the registered pilot may refuse to take that pilotage assignment. If another registered pilot is willing to cross the picket line, he or she may voluntarily do so and take the vessel. The Coast Guard will not interfere with such action but will take no action that might appear to favor one party or another to the labor dispute. If no registered pilot is expected to be available within six hours, the procedures detailed in the discussion of the six hour rule, above, should be followed.

Refusal After Boarding

If a registered pilot is confronted with a waterborne picket line after the vessel is already underway, the pilot may decide to honor the picket line. In this event, concern for the safety of the vessel will guide the actions of all parties. The registered pilot must take appropriate action to ensure the safety of the vessel, such as safely anchoring. If the vessel can safely anchor, the registered pilot may do so. Upon safely anchoring, the registered pilot is free to debark from the vessel. Coast Guard units should neither assist nor hinder the registered pilot's departure. If the registered pilot chooses to recognize the pickets, but departs an underway vessel without safely anchoring or otherwise providing for the vessel's safety, then that registered pilot may have violated the Great Lakes Pilotage statute by failing to provide pilotage service as required under 46 U.S.C. 9303(a)(3). In that case, if the ship's master proceeds with the voyage, the vessel will also be in violation of the pilotage regulations (46 CFR 4019510(b)(5)). The local COTP should begin an investigation as soon as possible following the investigation procedures detailed in the next section of this enclosure.

INVESTIGATIONS OF MARINE INCIDENTS

General

Registered pilots operating on the Great Lakes are subject to the penalty provisions of the Great Lakes Pilotage Act (46 U.S.C. 9308) and applicable regulations, as well as all other applicable federal statutes and regulations. Investigations of possible violations of the Great Lakes Pilotage Act are the responsibility of the Director of Great Lakes Pilotage. On the Great Lakes, the Officers in Charge, Marine Inspection (OCMIs), from the Ninth Coast Guard District are responsible for conducting all investigations of marine casualties.

U.S. Great Lakes Registered Pilots

For investigations of marine casualties or incidents involving U.S. Great Lakes Registered pilots, the local OCMI will coordinate the investigation activities with the Director's staff to ensure that the provisions of the Great Lakes pilotage statutes and regulations are adequately addressed during the course of the investigation and in the final recommendations. The Investigating Officer (IO) will not require the pilot to complete the casualty report (form CG-2692). The registered pilot is a key witness/party to the investigation. The IO may require a registered pilot to file a statement, just like any

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other witness/party. However, the registered pilot is not a representative of the marine employer, and therefore is not required to complete the casualty report (46 CFR 4.05-10(a)). The OCMI will furnish the Director with a copy of any investigation of a marine casualty or incident which involves a Great Lakes registered pilot. Any statements filed by the registered pilot as part of the investigation should be included. The registered pilot is also required to inform the Director of any marine accidents within 15 days, as required by 46 CFR 401.260(a). This requirement does not relieve the registered pilot of responsibility for submitting any other statement or report required by the local OCMI or any other entity. The report to the Director is in addition to any other requirements. The Director will furnish the OCMI with a copy of any statements made by registered pilots involved in marine accidents.

Relations with Canadian Great Lakes Pilotage Authorities

Any matters which require coordination with the Canadian Great Lakes Pilotage Authority, Ltd. (GLPA) will be referred to the Director of Great Lakes Pilotage.

REQUESTS FOR TWO PILOTS

General

Every year there are vessels which operate on the Great Lakes when some or all of the Coast Guard's buoys are absent. This usually occurs at the very start of the shipping season, or at the very end of the shipping season. When these vessels are required to engage a Great Lakes registered pilot, a request is often made by the local pilots association to use two pilots for the transit.

Pursuant to 46 CFR 401.425, The Director of Great Lakes Pilotage will be responsible for determining when two pilots will be allowed for certain transit.

If a pilot association makes a request to use two registered pilots, the Director will investigate the circumstances and make a determination on a case-by-case basis, after obtaining a recommendation from the Commander, Ninth Coast Guard District (m).

At the start of every shipping season, the Commander, Ninth Coast Guard District (m) will inform the Director of the expected schedule for the placement of buoys. At the end of every shipping season, the Commander, Ninth Coast Guard District (m) will inform the Director of the expected schedule for the removal of buoys. The Commander, Ninth Coast Guard District (m) will also inform the Director if there is significant variation from this schedule.